Alternative report submitted to the UN Human Rights Committee in reference to the Fifth Periodic report on Israel

January 2022

Submitting NGO: The Public Committee against Torture in Israel (PCATI)

The Public Committee against Torture in Israel was established in 1990 and has continuously sought to abolish the use of torture in Israel. We protect any individual harmed during interrogation, demonstration, detention or incarceration; we represent Israelis, Palestinians, refugees and immigrants who were subjected to torture, or to cruel, inhuman or degrading treatment at the hands of Israeli authorities.

We at PCATI believe that torture and abuse of any sort – and under any circumstance – cannot align with morality, democracy and the rule of law. The State of Israel that we envision and aspire to is free of institutional violence, a place where people whose bodies and souls were harmed find recognition and justice.

Executive Summary

Since Israel's ratification of the International Convention for Civil and Political Rights (ICCPR) in 1991, the UN Human Rights Committee has undertaken four examinations of Israel. In relation to the upcoming review of Israel in the 134th session, the present report is submitted to the Human Rights Committee as an alternative to the State of Israel's report, replying to the questions in the list of issues regarding progress made with respect to treaty implementation and compliance.

This report is written in the shadow of the Covid-19 global pandemic, and its accompanying violations and abuses to human rights. In addition to the issues raised by the Committee, therefore, this report will also address the response of the State to the pandemic, with special reference to adjustments and restrictions placed upon detainees and prisoners and the curtailing of the Freedom of Protest.

To our regret, since Israel underwent its last review by the Committee, the recommendations of the Human Rights Committee and other UN treaty bodies have not been implemented. Most notably, despite the long-standing criticism of Israel's use of the "necessity defense" to justify torture in interrogations, this practice is still used on a regular basis. In fact, the reporting period has seen an increase in the use of torture with devastating and well-publicized consequences. Moreover, Israel continues to procrastinate in fulfilling its obligation to incorporate the prohibition against torture into Israeli law, despite its public commitment to do so in May 2016.

Ultimately, Israel has failed in its basic obligation and commitment not to use torture; it has also failed in its basic obligation and commitment to prosecute offenders, and to provide real and effective safeguards against torture or ill-treatment. This basic and egregious violation of the right not to be subject to torture and ill-treatment cannot be brushed over or obscured by any other cosmetic changes to the examination process. Given the long-standing nature of this problem, and the State's lack of implementing remedies in the past decade, we also urge the Committee not to accept anything less than an immediate change, with a clear implementation schedule.

This alternative report addresses six foci:

1. Children's rights in detention, arrest, interrogation and incarceration
2. Freedom of assembly and protest
3. Torture and ill-treatment
4. Treatment of persons deprived of their liberty,
5. Effective training of officials
6. Civil society and its delegitimization

The documentation presented in this report derives primarily from PCATI's ongoing monitoring of Israeli law and practice within the areas of the UN CCPR, including frequent and regular visits to detention centers and prisons, and regular monitoring and follow-up of the progress of complaints through the Israeli legal system. References to the State position are taken from the Report submitted in October 2019 and supplemented where relevant with additional State statements. This report addresses only those issues on which PCATI has either expertise or relevant information.

SECTION 1: Children's rights in detention, arrest, interrogation and incarceration (with reference to question 21)

The State response, rejecting Human Rights Conventions as non-applicable in the West Bank, although standard and expected regarding these issues, cannot be allowed to stand. Firstly, after 54 years of occupation of the West Bank, Israel cannot continue to renounce the application of all Human Rights Conventions. Secondly, the State's position contains a factual mistake: most of the children detained are held for long months in detention within Israel proper, and of course are administered by Israeli officials and civil servants – and therefore are subject to Israel's commitments to Human Rights Conventions. Thirdly, the State's answer does not address the situation of children in East Jerusalem (which Israel considers as Israeli territory) and their rights under the Human Rights conventions. Israel's commitment to Human Rights

Conventions is therefore applicable, as are the Committee's questions. On this issue, as on other allegations of abuses occurring in the occupied Palestinian territories, Israel cannot circumvent or put off its obligations.

In general, on all questions regarding the treatment of children in detention, arrest, interrogation and incarceration, we would like to direct the Committee's attention to the report submitted by Parents Against Child Detention (PACD). We emphasize that PCATI has noted a flagrant disregard of the well-being of children, and in particular the rights of children in the West Bank and East Jerusalem. Among several issues, the most urgent is the dismissal of the primary principle articulated in the Convention on the Rights of the Child – that arrest should be used "as a measure of last resort and for the shortest appropriate period of time" (article 37).

Currently, an astonishingly high percentage of children, some just barely reaching the age of criminal responsibility (12 in Israel), are routinely arrested and detained by Israel for months with little concern for their well-being. Detention of children and youth in the West Bank is widespread. Israeli authorities (army, police, and prison authority) consistently violate the rights of children in every phase of the criminal justice process, from arrest to interrogation to detention and incarceration. As opposed to Israeli children, Palestinian children in the West Bank are arrested and tried under a military system, which is not mandated to protect their dignity or to consider their mental health and development.

The violation of Palestinian children's rights begins with their arrest, which is often carried out in the middle of the night when children are removed forcibly from their beds, handcuffed, blindfolded, and taken to military compounds. Only in very few cases is the young person able to consult with a lawyer before the interrogation, which is conducted without the presence of a parent or guardian, and which often include threats, physical violence, insults and intense pressure to confess to alleged accusations. The military court system, where the trial takes place, does not implement "the best interest of the child" as a guiding principle, as mandated by the Convention on the Rights of the Child. Arrest, detention, and custodial sentences remain the default treatment for Palestinian children under the occupation legal system, contrary to the principles of international human rights law and juvenile justice. All judicial and administrative decisions regarding children are administered with no input from mental health professionals, in other words, with no professional qualified to assess the short- and long-term damage and trauma caused.

For an example of violation of children's rights by the police, see the example of Y. in the following section.

Suggested recommendations:

1. All minors should be given access to regular phone calls to their families.

2. All judicial and administrative decisions regarding children should be administered with input from mental health professionals, qualified to assess the short- and long-term damage and trauma caused to them.

3. Specific training should be given to judges and court officers in juvenile courts, and such training should include civil society actors and mental health professionals.

4. The Committee should ask for clarification regarding the officials who conduct interrogations of children. In particular, the Committee should inquire the following: How many of the interrogations of Israeli children were carried out by trained youth interrogators? How many of the interrogations of Palestinian children were carried out by trained youth interrogators? What are the obstacles to having all such interrogations carried out by trained youth interrogators, and how and when does the state plan on resolving them?

For further recommendations, please see the parallel report submitted to the Committee by Parents Against Child Detention.

SECTION 2: Freedom of Assembly and Protest

In general, PCATI regrets that it must point out that there is a systematic problem with regard to respecting Freedom of Assembly and Freedom of Protest; and unfortunately, the phenomenon of unnecessary, significant and illegal police violence in dispersing protests appears selectively, with certain communities bearing the brunt of the violence. These communities are the Ultra-Orthodox, the Jewish Ethiopian community, the Bedouin community, disabled persons and Palestinian citizens. Additionally, the difficulties of the pandemic and rising discontent with the government have brought about an increase in protest since early 2020, and an increase in police violence in dealing with these protests. In 2020 and in the beginning of 2021, PCATI witnessed a rise in excessive use of force against and arrests of citizens by the Israeli police in the context of demonstrations, such as the weekly protests against former Prime Minister Benyamin Netanyahu in Jerusalem as well as against the newly enacted health regulations to combat Covid-19 across the country.

This rise in violent incidents is reflected in the number of cases handled by PCATI's legal team: while in 2019, PCATI submitted 12 complaints on behalf of victims of police brutality to the Department of Internal Police Investigations (DIPI), in 2020, 35 new complaints were filed to DIPI by PCATI alone, out of which 10 complaints were filed only in July 2020 – at the height of the public protest.

Incidents of police violence climaxed once again in May 2021, as Israeli police deployed a crackdown against Arab-Israeli protestors who were taking to the streets in response to Israel's policies in East Jerusalem and the military offensive on Gaza. Demonstrators were confronted with extreme force by the Israeli police and various units of Israel's security apparatus. **Hundreds of protestors, including minors, were subjected to extreme physical and psychological violence during and after their arrest. PCATI's lawyers reported of arrested protestors with severe bruises who were denied medical assistance, denied access to lawyers, or arrested minors who were interrogated without their parents present.**

The excessive use of force against the Arab population of Israel was backed by Israel's political echelon. In an interview on May 13, then-prime minister Benyamin Netanyahu granted a *carte blanche* for police brutality by assuring Border Police officers in Lod that they would not need to fear any probe for their enforcement methods.

The case of Y. serves as an example of the manifold incidents of violent policing which were experienced by the Arab-Israeli community during the May events. Y., a 14-year-old resident of Haifa, returned from a visit of a friend's house, accompanied by his friend's father. Suddenly, four undercover policemen got out of a vehicle and ran towards him. Y., fearing an attack by a violent Jewish militia, started running. The undercover policemen caught him and violently carried him into the car, causing Y. to believe he was being kidnapped and fearing for his life. Y. sustained severe bruises, his phone was crushed and his nose broken. He was taken to a Police station, instead of receiving medical care. Still bleeding in the police station without help, he was told by policemen that he would have to clean the floor. Only after several hours Y. was taken to the hospital, where his parents were finally allowed to see him. Afterwards, Y. was brought back to the police station where he was detained until the next morning. Following a hearing, the judge released him and Y. remained in home detention for five days.

As regards lack of accountability with regards to allegations of police abuses, see below.

Suggested Recommendations:

1. Provide all police officers with guidance on the rules of engagement and limitations on using non-lethal crowd control measures during demonstrations, especially regarding: use of "skunk" water cannon (especially in dense neighborhoods), "kettling" of protestors, use of rubber bullets, and use of mounted police officers.

2. As a rule, officers who have been the subject of a complaint and are investigated on suspicion of violent conduct towards civilians, should be restricted from direct engagement with civilians until the complaint is thoroughly settled and investigated.

3. Police officer training should include coaching aimed at combatting racial profiling of minority groups.

SECTION 3: Torture and Ill-treatment (arts. 7, 9, 10, 12 and 24)

Note: Due to the breadth of issues covered, this section is divided into the following sub-sections:

a. Legal status of torture and ill-treatment
b. Lack of accountability – promptness of the ISA examination mechanism
c. Lack of accountability – effectiveness of the ISA examination mechanism
d. Necessity defense
e. Lack of documentation (medical and audio-visual)
f. Incommunicado detention
g. Lack of accountability in examination of allegations of police abuses
h. Recommendations

A. Legal Status of torture and ill-treatment

States are obligated to regulate the offence of torture as a crime under their criminal law, in accordance with the elements of torture mentioned in Article 1 of the Convention Against Torture. And yet Israeli law contains no specific prohibition, definition or criminalization of torture, despite Israel's repeated and ongoing formal commitment to international law.

Israel has claimed that existing provisions within its penal code ("other offenses") have the effect of criminalizing all acts of torture. As a matter of fact, the existing offenses fall far short of the standard set by CAT in the following respects: 1. Existing offenses do not address the issue of mental suffering. In addition, psychological torture - such as threats of repercussions to family members or sexual intimidation - does not fall under any existing offence. 2. Most existing offenses carry a maximum penalty of three years, which is not proportionate to the gravity of the crime of torture. 3. Existing offenses are subject to the statute of limitation (most of them 5 or 10 years); this contradicts the absolute nature of the crime of torture as declared in international law 4. Existing crimes do not prohibit acts pursuing a purpose such as punishment, intimidation or discrimination.

The State declared in its appearance before CAT in May 2016 that it was working on a Draft Bill criminalizing torture. That declaration occurred almost six years ago. In that period, there has been no advance at all; not even a memo allowing for public discussion of the Draft Bill, let alone the presentation of the Draft Bill to the relevant Parliamentary Committees or the beginning of the Bill's passage into Law. Even more worrying is the State's declaration to the Committee, quoted here in full: "Inter-Agency staff work on the Draft bill is still ongoing, thus, it is impossible at

this stage to provide definitive information with respect to the specific definition of the offense that will be included in the draft bill or with respect to the time frame for the completion of the drafting process." In light of the absolute lack of progress over the past 6 years, this refusal to provide any information regarding either the content or the timeframe of the long-promised law appears astonishing; a less charitable explanation would call it disingenuous and evasive.

We note that the Ministry of Justice is currently advancing a legislative initiative, aimed at embedding in Israeli law the "fruits of the poisonous tree" doctrine, as developed in local jurisdiction. The draft bill, which is an amendment to the current Law of Evidence, states that the courts shall have discretion in determining the admissibility of evidence gathered through illegal means, while also considering other factors such as the public interest in accepting the evidence. In its comments on the draft bill, submitted in December 2021, PCATI reiterated that any evidence gathered through torture or other cruel or inhuman treatment to the interrogee should be automatically disqualified from being used as evidence in trial, as inscribed in the UN Convention Against Torture, as well as in this Committee's last comments to Israel from 2016.

B. Accountability- Promptness

We note that the State response has not addressed two of the fundamental criteria for examining allegations of torture – promptness and effectiveness of the examination – and with good reason, as these criteria are not met. This section of the alternative report will therefore focus on these principles.

An investigation that drags on for months or years naturally harms the chances of bringing suspects to trial and of obtaining the necessary evidence to conduct a criminal trial; this, in turn, is liable to bring about the unjustified closing of investigation files. The time elapsed since the commission of the crime can also influence the memory of the witnesses and the possibility of relying upon complete, credible testimony. We note in this context that ten months to conduct an investigation was considered "unreasonable" according to the UN Committee Against Torture in the case of *Encarnación Blanco Abad v. Spain*.

At the time of writing (December 2021), the average time it takes the Inspector of Interrogee Complaints (IIC) to conclude the preliminary examination of a complaint filed by PCATI is 56 months, or 4.5 years, and this, before a criminal investigation has even been opened. The unreasonable length of time is sometimes caused by the fact that, under the current operating procedures, the very existence of any other legal proceeding in the case (such as a mini-trial regarding the validity of the confession) leads to the freezing of the examination process. This clearly violates the requirement of a prompt investigation, harming irreparably the rights of complainants

to redress. The excessive length is enhanced by the fact that the Inspector is just the first of four different stages in the preliminary investigation. Once his examination is completed, his recommendation is passed on to the Inspector's Supervisor, who then in turn – after an indeterminate number of months – presents his recommendation to the Attorney General (AG). The Attorney General's decision is the final one, and he is the only one empowered to issue a decision whether to open a criminal investigation into the behavior of ISA interrogators. Only then does the DIPI begin its criminal investigation. Thus, the system in its entirety is designed to increase obfuscation and delay the process.

C. Accountability - Effectiveness

Since the establishment of the IIC in 2001, the IIC supervisor has only twice recommended that a criminal investigation be launched into a suspected case of torture by an ISA interrogator; both cases were subsequently closed without charges being brought. **Of the over 1,300 complaints examined from 2001 to 2020, not a single one led to criminal charges being filed; and only two cases have even passed the threshold of a preliminary examination, and were awarded a full investigation process.** This, despite the fact that many of the complaints describe systematic and egregious violations of the Convention, and many are backed by substantial medical evidence.

On April 25th 2021, Israel's AG published a decision to close the investigation file in the case of a young Palestinian woman who underwent a severe sexual assault during her arrest in 2015 – an internal cavity search by a female military doctor and a female soldier consecutively, without her consent nor any operational necessity, conducted under the orders and/or knowledge of the officers present at the incidence. This humiliating search is illegal, constituting the criminal felony of rape and violating standard arresting procedures.

According to an article published in the Israel newspaper Haaretz on April 22[1], the investigation, which was initiated in 2017 by the DIPI and the Military Police Criminal Investigation Division (MPCID), failed to gather sufficient evidence to determine which of the commanders, who each accused the other, ordered the invasive search. Therefore, the case was closed without a recommendation to file an indictment against any of those involved - despite the fact that all involved admitted that the search did indeed occur, and that there was no concrete intelligence information justifying the need for such an invasive search.

[1] '*It Started with a Palestinian Woman's Arrest. It Ended with Israeli Officers Investigated for Rape'*, Haaretz April 22nd, 2021, **https://www.haaretz.com/israel-news/.premium.HIGHLIGHT.MAGAZINE-it-started-with-palestinian-s-arrest-it-ended-with-israeli-officers-probed-for-rape-1.9737766**

We note that the decision not to open any criminal proceedings is all the more surprising - not to say incomprehensible – given the many instances where the system admits wrongdoing and substantial harm caused to the detainee. For instance, in May 2020 PCATI received replies closing the complaints of seven Palestinians who had complained of torture during their interrogations in 2014. In all seven cases, the IIC supervisor came to the conclusion, based on the preliminary examinations by the IIC, that the interrogation did not meet legal standards to open criminal investigations, although the supervisor voiced concern regarding some interrogation techniques used in these cases, as seen by his recommendation that the ISA "clarify its internal instructions".

To take but one of these cases as an example, Mr. IZ complained that during his interrogation in October 2014, he was subject to torture and "necessity defense" interrogations for several days. During that part of the interrogation, he was deprived of sleep, held in various stress positions, threatened and abused, and beaten; the immediate results were a severe swelling in one leg, several instances of loss of consciousness, and loss of hearing in one ear. The IIC supervisor concluded that "one cannot rule out a causal connection" between the medical findings - a torn eardrum and persistent and severe pains in his limbs – and the practices employed in his interrogation. And yet, rather than concluding that such serious allegations and such concrete evidence require a forensic examination according to the Istanbul Protocol and a criminal investigation, the IIC supervisor decided, yet again, to close the file. The IIC supervisor did concede that the interrogation was not appropriate, as evidenced by the call to the ISA to "clarify instructions," review procedures, and draw conclusions; but in spite of all this, the IIC concluded that the interrogators did not evidence any lapse in judgement. Evidently, the very body charged with examining allegation of torture finds the use of extreme physical and psychological practices – extreme enough to lead to a torn eardrum – as acceptable.

We note that the possibility of effective examination and investigation of allegations is also hampered irremediably by the lack of documentation and recording of the interrogations; on this issue, see more below.

The State has not, to date, made use of or requested the provision of Istanbul Protocol assessments in cases of torture allegations. The few assessments conducted privately by CSOs were rejected by the Ministry of Justice. These problems are compounded by the obstacles piled in the way of independent assessments undertaken by CSOs. This situation leads to loss of medical evidence, directly and gravely hindering the ability of detainees to lodge sustainable complaints, and effectively hamstringing the professionalism of any examination.

D. Necessity Defense

The Israeli Supreme Court, sitting as High Court of Justice (HCJ), has determined that no authorization to torture may be given in advance. Yet the same court, in a 1999 milestone ruling (HCJ 5100/94 *Public Committee against Torture in Israel v. the State of Israel*), determined that Israeli Security Agency (ISA) interrogators suspected of violating rules of interrogation because of necessity may be exempt from criminal conviction or even prosecution, if they interrogate suspects during "ticking time bomb" situations. The status of torture in Israeli legislation is therefore not completely clear, and the 1999 ruling has had the effect of rendering the prohibition on torture a derogable one, in stark contrast to the principles and rules of international law. This flouting of the prohibition against torture received yet another blow with the infamous judgements in the cases of Abu Ghosh and Tbeish.[2] In these two unfortunate decisions, the Israeli HCJ upheld the defense of the interrogators, and declined to order a criminal investigation of torture, thereby condoning the State's unacceptable whitewashing of torture interrogations.

Of course, even a single instance of torture, let alone one sanctioned by the authorities of the State, is unacceptable. Yet, contrary to the State's claims, the necessity defense is not employed sparingly, but regularly. Since 2001, 1,300 complaints have been submitted regarding the use of torture and ill-treatment in ISA interrogations, containing different allegations including beatings, sleep deprivation, holding in stress positions and sexual abuse.

In the last five years alone – in other words, since the last report to the ICCPR - PCATI has received dozens of allegations regarding the use of different stress positions, including 14 substantiated allegations regarding the use of the "banana" position, whereby the victim is held on a seat, hands tied in front and then pulled, pushing the victim backwards until the body forms an arch. This positions, like others, causes pain and neuro-skeletal damage. In addition, while being held in this position, the victim's genitals are vulnerable, and he may also be subjected to sexual abuse. This and other stress positions have been employed with the full consent and authority of the State, as a regular, accepted and authorized element of interrogations. We note also – lest the State doubt the veracity of the complaints submitted through PCATI – that PCATI proceeds with the filing of a complaint only after conducting its own due diligence regarding the allegation.

The urgency and importance of these issues was recently illustrated in the decision of the District Court in Lod, delivered on 19th June 2018 in the *voir-dire* procedure of the so-called Duma case.[3] The suspects claimed that their confessions were extracted after

[2] HCJ 5722/12, *Abu Ghosh et al. vs. Attorney General et al*.; HCJ 9018/17 *Tbeish et al. v. State attorney General et al*.
[3] The Supreme Court, case number 7388/20 *Amiram Ben Ulliel vs. The State of Israel,* pending**;** Jerusalem District Court, case number 932-01-16 *The State of Israel vs. Amiram Ben Ulliel*, decided on 19.6.2018.

the use of "special means", employed in regular cycles over a period of several days. These so-called "special methods" included, according to testimonies: stress positions, sleep deprivation, sexual intimidation, beating, and threats of various kinds. In his testimony to the court, one of the interrogators under the alias of Miguel confirmed that "a great part of the power of the 'necessity defense' is its mental effect on the interrogees, who are put under great tension and opaqueness, and do not know how far the violent behavior of the interrogators may take them." (Paragraph 187 of the District Court ruling). Miguel further clarified that the means employed are "painful and perhaps very painful" (emphasis in the original), having tried them on himself in the past. He also confirmed that the necessity interrogation includes "humiliating statements, which are not employed in a regular interrogation." (Paragraph 186 of the District Court ruling).

The use of the necessity defense is far from being unusual, rare, or exceptional. If these cases represent "a minute percentage" of the total of ISA interrogations, as the State argues, it suggests that the total of ISA interrogations is astonishingly and alarmingly high – and not that the torture interrogations should be disqualified as unimportant.

As for the State's claim that the methods used do not amount to torture, we may refer to the egregious and yet representative cases of Samer Arbeed.

Arbeed was arrested by Israeli Security Forces (ISF) on 25.9.2019 in good health and transferred to the ISA for interrogation. On September 27, Arbeed was admitted to hospital in critical condition: he was unconscious, respirated, undergoing dialysis for kidney failure, and diagnosed with several broken ribs. In addition, PCATI received allegations of similar violent interrogations involving other detainees arrested at the same time in connection with Arbeed, and at least one other detainee was also hospitalized in grave condition and with a broken jawbone following the interrogation. By the following day, sources in the ISA announced that "exceptional measures" had been used in Arbeed's interrogation, under what is known as the "Necessity Defense".

Despite the medical evidence indicating that Arbeed was severely abused while in custody of the ISA, on 24.1.2021, Israel's Attorney General announced that "no sufficient evidence was found to justify an indictment, and the case is therefore closed". [4] *To the best of our knowledge, this examination - like any other so far - has not included an Istanbul Protocol assessment of Arbeed, his injuries, and their connection to the allegations, neither in the hospital nor afterwards. Any examination of torture*

[4] See: '*Shin Bet cleared of 'torture' of Palestinian accused in Rina Shnerb murder'*, JPost 24.1.2021,https://www.jpost.com/israel-news/shin-bet-cleared-of-torture-of-palestinian-accused-in-rina-shnerb-murder-656509; '*Case Closed Against Shin Bet Agents Accused of Assaulting Palestinian Terror Suspect*', Haaretz 24.1.2021, https://www.haaretz.com/israel-news/.premium-case-closed-against-shin-bet-agents-accused-of-assaulting-palestinian-terror-suspect-1.9477634

allegations without this internationally recognized health assessment is incomplete and unprofessional and ignores Israel's commitments to international law to a professional investigation. We note that the nature of Arbeed's injuries – both the broken ribs and the extensive and sudden kidney failure – are compatible and diagnostic of the use of beating and stress positions, which have been routinely used in other "necessity defense" interrogations. The decision by the AG not to hold accountable any of the State agents who were responsible for Arbeed's alleged torture, and who should have maintained his physical integrity while in Israeli custody, indicates Israel's lack of interest or ability to end impunity for the crime of torture.[5]

PCATI requests that the Committee pay particular attention to this issue – namely, the ongoing approval of the use of torture by the State. This is not a minor infraction, nor a small disagreement regarding the applicability of a theoretical commitment. The State of Israel has chosen, deliberately and knowingly, to flout its stated and reiterated commitment to prohibit torture. As long as this festering wound remains, it renders null and void any other minor advances.

E. Documentation (both medical and audio-visual)

Medical documentation

The lack of appropriate training and the acute need for it are demonstrated by the laconic medical records in cases where a detainee complained to the IPS medical staff. Prison medical files will often note that a detainee complained of unspecified "pains", without identifying the location of the pains, or note that a detainee suffered "bruises," without describing the size, location and other features of the bruises. Although IPS regulations demand that any injury to a detainee be photographed immediately in the prison clinic, in the past five years PCATI has encountered only two cases of such photographic documentation out of hundreds of medical files. This situation leads to loss of medical evidence, directly and gravely hindering the ability of detainees to lodge sustainable complaints.

Audio-visual documentation

As the State notes, since the last report the Ministry of Justice has established a new mechanism, whereby supervisors may view randomly selected ISA interrogations, broadcast via closed-circuit television, and may present reports based on their viewing. As the State rightly notes, this is an important step forward for accountability, providing

[5] See: '*Torture of Palestinian prisoners: Time to end Israel's impunity'*, Op-Ed by PCATIs Executive Director Tal Steiner, Middle East Eye 5.2.2021, https://www.middleeasteye.net/opinion/torture-palestinian-prisoners-time-end-israels-impunity

some deterrent to egregious abuses and ensuring that interrogators know that their actions may be seen and monitored. Having said that, PCATI must also inject a sober note, clarifying the extremely lacunose and limited nature of this mechanism.

First and foremost, although the closed-circuit technology allows the supervisor to view an interrogation in real time, it still does not allow for any kind of recording of the interrogation, rendering the mechanism null and void for evidentiary purposes as regards to complaints of torture and ill-treatment. Even if the supervisor happens to view a gross violation of national regulations or international standards, he/she can do no more than continue to watch and present a post-facto report, backed up simply by the eye-witness report. Thus, the current mechanism can by no means fulfill the need for audio-visual documentation, nor does it provide adequate assistance to the desired increase in accountability for abuses. The problem was sadly demonstrated last year, when an investigative news program, "HaMakor" ("The Source"), exposed that the confessions of two young men from Jaffa of participating in a lynch they never committed, were obtained through torture by Israeli police agents. A legal obligation to visually document interrogations of severe violations is vital to assure the conduct of fair interrogations, and to deter interrogators from using unlawful means of interrogations, including torture or inhumane treatment.[6]

In addition, a comparative analysis of the yearly reports filed by the Israeli Ministry of Justice to the Knesset Constitution Committee, tasked with parliamentary oversight of the closed-circuit viewing mechanism, reveals major flaws in its effectiveness. **According to the reports filed between 2018 and 2021, despite the alleged "hundreds of viewing hours" and "dozens" of reports filed by the inspectors, the Ministry of Justice could not indicate what was the outcome of such reports, or whether an investigation had ever been opened as a result of the viewing reports – not to mention indictments, or any other criminal or disciplinary outcome to stem from them.** Thus, the burden of proof to establish that the closed-circuit mechanism has any impact on detainees' rights remains with the State.

F. Incommunicado detention

As in previous appearances before UN bodies, the State insists that international human rights treaties are not applicable to the West Bank. The State therefore addresses only Israeli civilian law, ignoring the military legislation that applies to Palestinians detained by the State and sets up draconian provisions in relation to their arrest and detention. Legally speaking, there is a consensus among legal experts that international human

[6] See also '*To end torture, Shin Bet interrogations must be filmed*", Op-Ed by PCATIs Executive Director Tal Steiner, Middle East Eye, 15.11.2021, https://www.middleeasteye.net/opinion/israel-palestine-shin-bet-interrogations-why-filmed?utm_source=PCATI+Subscribers+2015P&utm_campaign=58734f7938-EMAIL_CAMPAIGN_2021_12_19_09_39&utm_medium=email&utm_term=0_112038cf56-58734f7938-484481373

rights treaties apply to the population of the oPt, a view that has been reiterated by international tribunals and UN bodies. Moreover, the question of the applicability of the CCPR should not be raised in relation to Palestinian detainees, since they are held on Israeli sovereign soil.

As stated in previous reports to this Committee, it should first be noted that in the case of Israel, preventing a detainee from access to counsel or family visits is clearly used as a means of exercising pressure for purposes of the interrogation. It is also a standard and systematic practice during the interrogation. In practice, this translates to the detainee being held in complete isolation from the outside world, without family visits or interactions with other prisoners.

Under Israeli criminal law, access to a lawyer to Israeli suspects of security offenses can be delayed up to a total of 21 days, by order of a District Court judge with the permission of the State Attorney. Access to a lawyer can be prevented by the officer in charge for up to 10 days. Under military legislation, which applies to Palestinian detainees, access to a lawyer can be prevented for up to 30 days by an IDF/Police or ISA officer, and up to 60 days by a military court judge. This is, therefore, very far from being an adequate safeguard.

The Israeli regulation concerning the right to notify next of kin is similar to that of the right to access legal representation. In regular Israeli criminal law this right can be suspended for up to seven days. In the oPt, however, military law allows a judge to withhold notification of next-of-kin for up to 12 days for security offenses. In practice, we see that being held incommunicado is a regular feature of security interrogations. The practice is so widespread as to be nearly ubiquitous, with judges scarcely pausing before approving yet another extension of the incommunicado.

G. Lack of accountability in examination of allegations of abuse by the Police

Against the backdrop of the ongoing issues with regard to police violence and the exponential increase in allegations of abuse regarding Freedom of Protest, it is worth noting that despite DIPI's responsibility to prevent police misuse of force, the current Head of the DIPI, Adv. Keren Bar Menachem, announced upon taking up office in 2018 that she sees the DIPI's role as a service provider to the police, and that the DIPI should avoid prosecuting police officers. This statement reflects accurately the reality on the ground; we do indeed see that complaints against abusive policemen are not pursued professionally, often closed, and at most result in unsatisfactory internal disciplinary measures without providing remedy to the victim.

We note that the lack of accountability within the Police applies to issues of Freedom of Protest, and to other allegations of police violence. Police investigations are plagued by a general lack of a rigorous and professional response to crimes committed by police

officers. In PCATI's experience, the cases where we see the initiation of legal procedures are those where audio-visual documentation of police violence exists to substantiate the complaint. This is rarely the case. The problem is compounded by the fact that DIPI rarely search for such supportive evidence. Currently, investigations into allegation of torture and ill-treatment by police officers lack a proactive approach, examining the testimony offered by the complainant, but not searching for any additional documentation. This does not meet the standard of police investigation apparent in other investigations in Israel, nor does it meet the standard required by the Convention. The DIPI should make efforts to locate and summon witnesses, question police officers involved, and proactively search for visual documentation.

In the rare cases where the DIPI have decided to initiate procedures, allegations against police officers result in a disciplinary hearing, even when the allegation itself involves a criminal offense. Disciplinary hearings are in essence internal, less stringent than criminal investigations, and carry reduced penalties. They also negate the rights of the complainant, leaving her/him excluded from the process, uninformed of any updates on the progress of her/his complaint or even any information on the very outcome or decision of the hearing.

Legally, complainants – and particularly minors – are allowed to be accompanied throughout the process, especially when giving their witness statement. This provides support and encouragement for the victim and can sometimes serve to monitor abusive or illegitimate behavior during the testimony (such as attempts to intimidate the victim into withdrawing the complaint). In practice, we find that the DIPI assumes that only victims of sexual violence are entitled to such an accompaniment. For all other victims, DIPI is both unaware of this right and often insistent that the complainant appear alone or lose the right to present his/her testimony.

When evaluating DIPI's performance statically, the bleak picture arising is that of a gross incompetence and a rooted, systematic lack of accountability: according to data collected by the Association for Civil Rights in Israel (ACRI), **between the years 2015 and 2019, on average 49.76% of the complaints filed by citizens to DIPI were dismissed without even a basic examination; 25.62% of complaints on average were closed after a preliminary examination only; and a mere 12.41% of complaints on average were awarded a full investigation process. In other words, an average of 87.79% of complaints filed to DIPI are closed annually without reaching trial**. Even more alarmingly, according to the data collected by ACRI, out of an average of 1,428 complaints filed annually to DIPI, **indictments have been filed against rouge police officers in only an average of 1.74% of the cases each year between 2015-2019, and only an average of 2.11% more cases were referred to disciplinary procedures**. This last, staggering figure speaks volumes on the

shortcomings and indeed, gross incompetence of the mechanism tasked with enforcing the rule of law within the Israeli police force.

A glaring example is found in the events surrounding the death of Yaakub Abu Al-Qi'an, a resident of the unrecognized Bedouin village Umm Al-Hiran. In the course of the village's evacuation in 2007, Abu Al-Qi'an, a local mathematics teacher, was shot by a police officer while driving his car at low speed, causing him to lose control over his vehicle and crash into the car of police officer Erez Levy, leading to the officer's death. Al-Qi'an was left to bleed to death as police medical staff refrained from providing him with any medical treatment. A preliminary investigation into the event by the DIPI was closed in May 2018, based on insufficient evidence for criminal proceedings against the police officers involved. Representing the victim's family, PCATI jointly with Adalah – The Legal Center for Arab Minority Rights in Israel, filed a petition to the HCJ after new evidence was published, proving that Abu Al-Qi'an was not carrying out an attack.

As PCATI and Adalah- The Legal Center for Arab Minority Rights in Israel have shown in a petition presented to the Supreme Court, forensic analysis – conducted after many delays in the transfer of the investigation materials from DIPI – shows critical faults in the examination of the responsibility of the policemen on the scene for the deaths of Yaqub Abu Al-Qian and the police officer Erez Levi. The decision of then-Attorney General, Shai Nitzan, to close the file, was taken without regard for the substantive evidence gathered and without a real attempt to determine if the policemen bear criminal responsibility for their actions. Overall, the DIPI investigation of this case shows a typical if egregious disregard for evidence and for the contradictions in the different testimonies given by the policeman.

On October 21.10.2021 Israel's HCJ denied the petition to reopen the investigation into the death of Yaakub Abu Al-Qi'an, stating that it seems unlikely that launching an investigation at this point in time would lead to indictments". PCATI regrets the decision which, yet again, manifests the lack of accountability and impunity of police officers resorting to excessive violence against the Bedouin community in Israel. This tragic case demonstrates the shortcomings of the DIPI investigation mechanisms, which failed to gather sufficient evidence in timely manner and thus frustrated the attempt to hold accountable the officers responsible for the tragic and preventable killing of Mr. Abu Al-Qi'an.

H. Suggested Recommendations:

1. Torture must be criminalized immediately and without exceptions. Since the State has already committed to doing so six years ago, the Committee requests that the State present a reasonable timeline outlining the timescale until this is implemented.

2. Investigation into all allegations of torture, cruel, inhuman or degrading treatment should be prompt, lasting no longer than 10 months all told, from the start of the process to the end of the criminal investigation, if warranted. Preliminary examination should not take more than three months. This should hold true regardless of the investigating agency; steps should be taken to ensure that a transfer of a case from one agency to the other does not result in unreasonable delay.

3. Interrogations should be recorded by audio-visual means and complainants should be given full access to the video footage to prove allegations of torture or ill-treatment.

4. Complainants should be allowed a companion of their choice during the testimony stage, to ascertain that they do not face harassement during the investigation process.

5. All investigative bodies addressing allegations of torture should work to unify their standards and training, ensuring that the same professional standards are applied across the board, and that the quality of the investigation is not determined by the body to which the complaint was submitted.

6. All allegations involving a suspected criminal offense should lead to a full criminal investigation rather than preliminary examination alone, reserving disciplinary hearings for breaches of procedure.

7. The appeal process, in all investigative bodies, should not last more than a total of 6 months all told.

8. Any evidence obtained as a result of coercive and illegal means should be inadmissible in any court of law; it should be automatically disqualified from being used as evidence in trial, and not left to the discretion of judges or balanced against other interests. This should apply both to confessions and to recriminations of other parties, with no exceptions.

SECTION 4: Treatment of persons deprived of their liberty

Over-crowding in detention centers and living conditions in ISA wings

One of the most acute problems for persons deprived of liberty in Israel is the long-recognized over-crowding in prison facilities. This issue has been discussed in Israel's Parliament (Knesset) and in the courts over the past years, and should have been resolved with the landmark HCJ ruling 1892/14 (*ACRI vs. Minister of Internal Security*), in which the HCJ ordered the State to ensure that all prisoners' living conditions must meet the universal minimal standards, i.e., no less than 4 square meters per person. Though this ruling was handed down in January 2018, it has neither been implemented, nor does it appear that the implementation is imminent.

More worrying still, **in August 2020 the State published a memorandum on proposed legislation exempting security detainees while under ISA interrogations from the Supreme Court ruling on minimum living space,** suggesting that living conditions in ISA wings will be decided confidentially by a special committee manned, among others, by the Prime Minister and guided by the recommendations of the Knesset Committee for the ISA and the recommendations of the Head of the ISA.

Such an exemption would be unconstitutional under Israeli law, as it stands in direct contravention of the Right to Dignity of persons deprived of liberty, and discriminates them from other detainees and prisoners in Israel. Precisely those detainees who receive the least public attention and the least monitoring of their living conditions would be deprived of basic, internationally recognized living standards. Another concern is that abusive detention conditions may be utilized as an interrogation technique by the ISA, aimed at breaking the spirit of detainees and forcing confessions, especially as the detainees in question may be held in ISA facilities for months at a time. Moreover, the makeup of the deciding committee raises serious concerns that the substandard conditions would amount to cruel or inhuman treatment and punishment.

According to PCATI's data from ongoing monitoring visits, the State is correct in stating that prisoners and detainees have "access to complaint mechanisms concerning grievances regarding the staff and wardens', including claims of wrongful use of force" (para 123). Unfortunately, according to our analysis of the same data over the past five years, these complaint mechanisms are inefficient, unprofessional, and do not meet the basic international criteria of promptness, efficiency, or professionalism.

Transport conditions of detainees

The conditions of detainees and prisoners (both Israeli and Palestinian) transported from incarceration facilities to court hearings, medical appointments, or from one facility to the other are among the most shameful practices in the treatment of prisoners and detainees in Israel. The subject of transport of prisoners (so called "Posta") has been frequently addressed by PCATI as an issue amounting to ill-treatment of detainees: journeys that should last a few hours stretch into entire days of degrading torment. Prisoners sit on iron benches in the heat or cold with neither air circulation nor access to toilet facilities; while the nights are spent in run-down cells nicknamed "cages" – where the sanitary conditions are dire, including reports of fleas, noise, and constant lighting. The transportation conditions are so appalling that prisoners often waive their right to be present in court hearings of their cases or avoid essential medical treatment, simply to save themselves the ordeal of the journey. This abysmal situation is well-recognized. The 2020 State Comptroller's Report found that prisoner's transport journeys of a few dozen kilometres stretch across an entire day, and those of no more

than 200 kilometres stretch across three or even four days, all while the actual discussion of cases in court takes only about seven minutes on average.

PCATI and other human rights NGOs received a status of *amicus curiae* in an HCJ petition addressing this issue, HCJ 3354/17 *Awiwi and others v. Israeli Prison Authority*. The petition was dismissed in May 2020, with the judges ruling that the issue was no longer of concern, since the IPS has taken steps to remedy the situation. And yet, PCATI continues to receive reports of unconscionable and unjustified length in transit and unreasonable conditions. Indeed, in October 2021 the Knesset was convinced by the need for drastic changes and approved a 50 million NIS budget dedicated to improving prisoner transportation. It remains to be seen whether this budget leads to improvements on the ground.

In addition to the above, since March 2020 PCATI witnessed a drastic and unjustified shunting of basic human rights principles in addressing the Covid-19 crisis in prisons. **At the start of the outbreak in Israel, the State simply suspended lawyer and family visits to the prisons, without creating alternatives for in-person visits; this suspension lasted for several months. Roughly 4,500 Palestinian prisoners termed "security prisoners", including minors, are particularly vulnerable, especially as they are forbidden from using telephones, resulting in their total isolation**. Following petitions by PCATI and other human rights NGOs, the State agreed to permit phone conversations for Palestinian minors; this decision was implemented slowly and inconsistently, resulting in children as young as 14 being cut off from any family communication. Phone conversations for adult Palestinian security prisoners were only permitted on an ad-hoc and exceptional basis, leaving them essentially isolated for weeks on end. This, at a time when - with COVID-19's impact in the West Bank and Gaza - communication with family members was of particular psychological importance. The suspension of lawyers' visits except for urgent procedural matters deprived prisoners of a crucial safeguard against torture and ill-treatment, and left them without recourse should they wish to raise concerns. From a legal point of view, depriving detainees of all access to their lawyer on any issue is not acceptable under any circumstances. While we appreciate and applaud the State for taking the necessary precautions to prevent Covid-19 outbreaks in prison, the response has in effect simply rescinded detainees' and prisoners' basic human rights, denying their humanity and dignity, without consideration for possible alternatives.

An essential safeguard was removed when in November 2021, the Israeli Knesset passed a law permitting prisoner's court hearings to be conducted via video conference. The law was initiated by the Government due to the difficulties to enable in-person hearings during the beginning of the COVID-19 pandemic and is – as of now - limited to a period of two years.

Judicial review and the judge observing a detainee in person and examining her or his condition are an essential safeguard. Court hearings via video-conference may still infringe on prisoners' right to a fair trial and weaken the system's ability to identify potential cases of torture and ill-treatment.

Suggested recommendations:

1. Ensure that all detention facilities adhere to the HCJ ruling on minimum living space and withdraw the proposed legislation exempting ISA detention facilities from the ruling.

2. Verify that even under COVID-19 or other emergency situations, family visitations and in-person meetings with a legal counsel remain available for all prisoners.

3. Closely follow up on the implementation of the budget allocated to improve transportation conditions with specific emphasis on reducing travel time as well as improving physical conditions, food and hygiene in transportation facilities.

4. Before considering any extension of the legislation allowing for video hearings of detainees, the State must review and assess the effects it had on detainee's rights, duration of detentions and the detainee's ability to complain about sub-par conditions and rights-violations during detention and interrogations.

SECTION 5: Effective Training of Officials

Judges

As mentioned above, there are effectively two distinct judicial systems operating in Israel and the oPt, the civilian and the military justice system; Palestinians are subject to the second. The two systems follow different legal canons and are staffed separately.

The State claims that the process of arraignment before a judge in the remand extension hearings provides the necessary safeguard against torture and ill-treatment. In practice, even once suspects are brought before a military court judge, the setting does not allow for the judicial review to act as it should, protecting the detainee and providing a safe space for allegation. This, in spite of the fact that the vast majority of Palestinian detainees are held incommunicado during the interrogation, with no access to a lawyer, making the military judge their one possible advocate and a first responder to claims of abuse. First of all, the court hearings are held in Hebrew, which does not allow Palestinian detainees to be active and engaged participants in the process. Secondly, the judge is a military judge, part not only of the general Israeli system but specifically of the occupying army system. Detainees therefore will often hesitate or decline to expose stories of ill-treatment of their own volition. Thirdly, judges often do not see themselves

as obligated to ask about the well-being of the client, in spite of the lack of sufficient and substantial access to counsel. Fourth, in the few cases where a detainee has put forward allegations of abuse, judges are inclined to note the allegations with no further comment and move on, without insisting on an immediate and thorough investigation of the allegations, instead returning the detainee to the very people against whom he is complaining. Fifth, even in those rarest of cases where a detainee has alleged torture or ill-treatment, and the judge has ordered measures taken, such as an examination by a health professional, this order is likely to be ignored.

All of these issues highlight both the importance of the judges, particularly in military courts, in potentially preventing or stopping any abuse; and the absolute necessity that judges receive regular and ongoing training on their duties and international legal guidelines. **To the best of our knowledge, such training is non-existent to date; approaches made by PCATI to the Ministry of Justice and to the Judicial Training Institute have not received any substantial response.**

Medical Personnel

There is no systematic and specific training of physicians in identifying signs of torture or ill-treatment, neither in the medical faculties nor in the teaching hospitals. Physicians do not receive specific training in the documentation of torture pursuant to the Istanbul Protocol. This is true also of Israel's few forensic doctors working in the National Forensic Institute. The lack of a systematic approach to victims of torture is apparent also in the training given to social service providers, who are often the first responders in detention facilities: to the best of PCATI's knowledge, there is no systematic training of social service providers or medical officers in detention centers in identifying signs of torture or ill-treatment in adults. Indeed, **a Freedom of Information request submitted on June 16, 2020, asking about any such training, was answered by stating that the information is "not easily available or cannot be located", suggesting that there have been no such trainings in the past years**. The lack of such training and the acute need are demonstrated by the laconic medical records in cases where a detainee complained to the IPS medical staff. Thus, prison medical files will often note that a detainee complained of unspecified "pains," without identifying the location of the pains, or note that a detainee suffered "bruises," without describing the size, location and other features of the bruises. In spite of the fact that the IPS regulations demand that any injury to a detainee be photographed immediately in the prison clinic, in the past 5 years PCATI has encountered only two cases of such photographic documentation out of hundreds of medical files. This situation leads to a loss of medical evidence, directly and gravely hindering the ability of detainees to lodge sustainable complaints.

Investigators

Since the last periodic report, the State has engaged in three trainings for investigators regarding the handling of reports of abuse by state officials - in 2018, 2020 and 2021. These initiatives are indeed useful, and a welcome first step towards a more professional and responsible approach to eradicating human rights abuses.

And yet, without diminishing the importance of these steps, we cannot help but note that when trainings are undertaken, the State attitude suffers from two grave misconceptions. The first is that training is an end in itself – an item on a list to be checked off, requiring little or no follow up once complete. In fact, as the Committee is well-aware, the actual days devoted to the training are simply the beginning of a process, hopefully leading to a deep change in attitudes. To complete the process requires a willingness to engage with the structural problems raised in the training, and a willingness to mentor officials as they seek to apply new attitudes and knowledge to their work. Both of these are sadly lacking, as we see by the lack of follow-up after trainings. We suggest that the lack of a comprehensive and regular training program regarding the definition and documentation of torture and ill-treatment– in spite of the many recommendations that the State do so, both from the Committee, from other Treaty Bodies, and even from official Israel governmental commissions – may be a contributing factor to the serious professional lapses noted in section 3 above.

The second misconception regards the State preference for training officials in the examination mechanisms, rather than training those who could prevent the abuses in the first place. Thus, while training the investigators charged with examining complaints is indeed necessary and crucial, "an ounce of prevention" would lead one to train the interrogators themselves, ensuring that there are fewer reasons for complaints regarding abuses. Similarly, training judges and medical personnel who are privy to allegations of abuse in real time and helping them understand their duty and power to stop such abuse in its tracks would be more effective than investing "a pound of cure" in the *post facto* examination of allegations many months later.

Suggested recommendations:

1. The State should hold specific and directed trainings on the investigation and documentation of torture and ill-treatment based on the Istanbul Protocol for Judges, especially Military Court Judges. This should result in raising judges' awareness of their obligation to inquire into any allegations of torture and ill-treatment which are brought to their attention. Given the urgency and importance of the judicial review, such training should be made available within one year from the publication of the recommendations, with a clear follow-up program.

2. The State should hold specific and directed training on the investigation and documentation of torture and ill-treatment based on the Istanbul Protocol for interrogators in the ISA and the Police.

3. The State should hold specific and directed training on the investigation and documentation of torture and ill-treatment based on the Istanbul Protocol for examiners and investigators of allegations regarding torture and ill-treatment in the IPS, ISA, Police, and the IDF.

4. As part of the follow-up process, the State party should provide, within one year, relevant information detailing its actions to provide such training. Such trainings should be held by the State, in consultation with relevant CSOs. The training should include an awareness of the common memory patterns among victims of torture and the common impediments that may affect the ability of a torture victim to present a well-ordered and completely consistent story.

5. The State should ensure the intensification of its education and training on how to identify signs of torture and ill-treatment – pursuant to the Istanbul protocol – among students of medicine, and particularly among physicians who are involved in the screening, diagnosis and/or treatment of detainees and asylum seekers.

SECTION 6: Civil Society and its delegitimization

Despite the State's valiant attempt in its submission to the Committee to present the Foreign Funding Law as simply a bureaucratic, neutral measure promoting transparency, it has both been designed and has functioned as an instrument for hindering HR NGO activities.[7] Having been forced to implement the measures described over the past two years, PCATI can confirm that as planned, this law both places an additional and unnecessary burden on the organization, and that it has a significant chilling effect on potential interlocutors. As regards the first point: the requirement to file full financial reports every three months, in addition to the standard yearly reporting – and the ensuing need to check with each donor what their own sources of income are – is onerous and requires additional manpower.

This weight, however, pales in comparison to the alarm experienced by potential PCATI interlocutors and partners when they encounter the required designation "funded by foreign entities" on written communications. The law requires that any written communication, any email to a civil servant or Member of Knesset, and any type of media campaign, contain this caveat regarding PCATI's funding (and by, implication,

[7] See OMCT report 2021, "**Target Locked: The Unrelenting Israeli Smear Campaign to Discredit Human Rights Groups in Israel, Palestine, and the Syrian Golan**", https://www.omct.org/en/resources/reports/en-isra%C3%ABl-des-campagnes-pour-asphyxier-les-d%C3%A9fenseurs-des-droits-humains-isra%C3%A9liens-du-golan-et-de-palestine

loyalties). This is not simply an administrative issue. The caveat carries with it a stigma, discrediting and delegitimizing human rights' work. Unfortunately, PCATI's experiences over the past years confirm our fears: new potential partners, such as MKs, physicians, and government employees are indeed frightened by this designation, and much more reluctant to engage in any dialogue or activity. In this sense, the delegitimization intended by the Law is working: any NGO falling into the "foreign-funded" category appears to have suspect loyalties.

This unpleasant and frankly often humiliating experience leads us also to a take a more jaundiced view of the vaunted cooperation with civil society in other instances. Though specific officials in the Ministry of Justice may act and indeed treat NGO staff as colleagues, the Ministry itself has also been the power pushing for continued delegitimization of the very nature of PCATI's work.

This suspicious approach to the very nature of human rights work received a sinister demonstration in October 2021 when Defense Minister Benny Gantz designated six leading Palestinian human rights groups as "terrorist organizations," accusing them of serving as arms of the Popular Front for the Liberation of Palestine (PFLP). The Defense Minister's order derives from the 2016 Counter-Terrorism Law, a deeply problematic piece of legislation that grants Israeli authorities far-reaching powers.

This declaration carried with it immense and immediate consequences, conceptually and practically, for the organizations and their human rights activities. In criminalizing critical and fundamental human rights work – such as documentation, advocacy, and legal aid – Israel has shown its essential lack of respect for civil society. We ask the Committee to reaffirm unequivocally – as does PCATI – that such draconian measures are not, and can never be, in keeping with Israel's declarations in support of civil society and in defense of human rights.

Suggested recommendations:

1. Israel should cease its attempts to smear and discredit Israeli civil society organisations and revoke legislation forcing them to declare donations received by so-called foreign entities.

2. Israel should revoke the designation of the six Palestinian human rights organisations and ensure that they can carry out their work freely. At the very least, Israel must reveal all factual evidence of its claims against the organizations, which would allow for full and unbiased judicial scrutiny of the decision.

Tel Aviv, 31 January 2022